

(b) *Legal or personal representatives of legally competent adults.* A requester who is a legally competent adult *may* use a legal or personal representative to submit a Request Package on his or her behalf. In such circumstances, the requester must indicate on the Request Form that he or she is authorizing the representative to seek benefits under this Program on his or her behalf.

(c) *Legal or personal representatives of minors and adults who lack legal capacity to receive payment of benefits.* A requester who is a minor or an adult who lacks legal capacity to receive payment of benefits *must* use a legal or personal representative to apply for benefits under this Program on his or her behalf. In such circumstances, the representative must indicate, in the place provided on the Request Form, that the requester is a minor or an adult who lacks legal capacity to receive payment of benefits and that the representative is filing on behalf of the requester. In addition, before the requester will be paid by the Program, the representative must submit the documentation described in § 110.63. A minor who is emancipated, as determined by a court of competent jurisdiction, does not need a legal or personal representative to file a Request Form or Request Package on his or her behalf.

(d) *No payment or reimbursement for legal or personal representatives' fees or costs.* The Act does not authorize the Secretary to pay for, or reimburse, any fees or costs associated with the requester's use of the services of a legal or personal representative under this Program, including those of an attorney.

#### § 110.45 Multiple survivors.

Multiple survivors of the same deceased injured countermeasure recipient may file Request Forms separately or together. Multiple survivors may also submit one set of any required documentation on behalf of all of the requesting survivors as long as such documentation is identical for each survivor.

#### § 110.46 Amending a Request Package.

(a) *Generally.* All requesters may amend their documentation concerning

eligibility up to the time the Secretary has made an eligibility determination. Requesters are expected to submit additional medical records as they become available. Requesters also may amend their information or documentation concerning the calculation of benefits until the Secretary has made a benefits determination. Once an *eligibility* determination has been made, the Secretary will not accept additional documentation concerning eligibility, except as described in paragraphs (b) and (c) of this section. Once a *benefits* determination has been made, the Secretary will not accept additional documentation regarding the type or amount of benefits for that covered injury, except as described in paragraphs (b) and (c) of this section.

(b) *Requesters who are survivors.* If an injured countermeasure recipient submitted a Request Form within the filing deadline, but subsequently dies, or the executor or administrator timely filed on behalf of the estate, the survivor(s) may amend the previously filed Request Package at any time by filing a new Request Form in order to be considered for death benefits. Such an amendment can be filed regardless of whether the Secretary made an eligibility determination or paid benefits with respect to the deceased injured countermeasure recipient's Request Package. However, a survivor filing an amendment to a previously filed Request Package may only be eligible for benefits if the previously filed Request Package was filed within the governing filing deadline. All documentation that has already been submitted with respect to the deceased injured countermeasure recipient will be considered part of the survivor requester's Request Package, and he or she is not required to resubmit such documentation. Survivor requesters must also file an amendment to a Request Package if there is a change in the order of priority of survivors, as described in § 110.11.

(c) *Requests in which the benefits are sought for the estate of a deceased injured countermeasure recipient.* If an injured countermeasure recipient submitted a Request Form within the filing deadline, but subsequently dies before all due benefits are paid by the Program,

the executor or administrator of his or her estate may amend his or her Request Package at any time in order for the estate to be considered for benefits. This opportunity to amend applies also if the Request Form was timely filed by a survivor. Such an amendment can be filed regardless of whether the Secretary made an eligibility determination or paid benefits with respect to the deceased injured countermeasure recipient's Request Package. However, the executor or administrator of the deceased injured countermeasure recipient's estate filing an amendment to a previously filed Request Package may only be eligible to receive benefits on behalf of the estate if the previously filed Request Package was filed within the governing deadline. All documentation that has already been submitted with respect to the deceased injured countermeasure recipient will be considered part of that person's Request Package, and the executor or administrator of the estate is not required to resubmit such documentation.

#### **Subpart F—Documentation Required for the Secretary To Determine Eligibility**

##### **§ 110.50 Medical records necessary for the Secretary to determine whether a covered injury was sustained.**

(a) In order to determine whether an injured countermeasure recipient sustained a covered injury, a requester must arrange for his or her medical providers to submit to the Program the following medical records, as defined in § 110.3(p):

(1) All medical records documenting medical visits, procedures, consultations, and test results that occurred on or after the date of administration or use of the covered countermeasure; and

(2) All hospital records, including the admission history and physical examination, the discharge summary, all physician subspecialty consultation reports, all physician and nursing progress notes, and all test results that occurred on or after the date of administration or use of the covered countermeasure; and

(3) All medical records for one year prior to administration or use of the covered countermeasure as necessary

to indicate an injured countermeasure recipient's pre-existing medical history.

(b) A requester may submit additional medical documentation that he or she believes will support the Request Package. Although generally not required if a Table injury was sustained, a requester may introduce additional medical documentation or scientific evidence in order to establish that an injury was caused by a covered countermeasure. Letters from treating physicians may be submitted as additional evidence, but may not substitute for the medical documentation required in paragraph (a) of this section.

(c) If certain medical records listed in paragraph (a) of this section are unavailable to the Program after the requester has made reasonable efforts to facilitate the records being sent to the Program, the requester must submit a statement describing the reasons for the records' unavailability and the efforts he or she has made to arrange for the health care providers to submit them. The Secretary has the discretion to accept this statement in place of the unavailable medical records. In this circumstance, the Secretary may attempt to obtain the records on the requester's behalf.

(d) In certain circumstances, the Secretary may require additional records to make a determination that a covered injury was sustained (*e.g.*, medical records more than one year prior to the date of administration or use of the covered countermeasure) or may determine that certain records described in paragraph (a) of this section are not necessary for an eligibility determination.

(e) Although the Secretary prefers to receive medical records directly from healthcare providers, she has the discretion to accept them from the requester.

##### **§ 110.51 Documentation an injured countermeasure recipient must submit for the Secretary to make a determination of eligibility for Program benefits.**

(a) An injured countermeasure recipient (or his or her legal or personal representative) must submit all of the following documentation in order for the